

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LANCE K. POULSEN and BARBARA
POULSEN,

Civil Action No. 05-CIV 10575 (LAK)

Plaintiffs,

-against -

HAROLD W. POTE, THOMAS G.
MENDELL and J.P. MORGAN CHASE
& CO.,

Defendants.

**PLAINTIFFS' RESPONSE TO DEFENDANTS' JOINT MOTION TO
STAY ALL PROCEEDINGS PENDING
RESOLUTION OF THE MOTION TO CONSOLIDATE**

The Plaintiffs, Lance Poulsen and Barbara Poulsen (collectively "Plaintiffs" or the "Poulsens"), submit their Response to Defendants' Joint Motion to Stay all Proceedings Pending Resolution of the "Motion to Consolidate"¹ and state:

1. Following the Defendants' removal of this action to this Court, the Plaintiffs filed a Motion to Remand or in the alternative Motion for Abstention. The Defendants thereafter filed a Notice of Related Action ("Notice of Related Action") before The Judicial Panel on Multidistrict Litigation ("MDL Panel") seeking to transfer this action for pre-trial proceedings to the United States District Court for the Southern District of Ohio as part of case number 2:03-MD-1565-JLG-MDA ("MDL Action").

¹ The Plaintiffs are unaware of any filings by the Defendants before the MDL Panel titled a "Motion to Consolidate." The Defendants have filed a "Notice of Related Action" and the Plaintiffs have filed an Opposition. It is apparent that the Defendants' intent is to request a stay on all matters related to their "Notice of Related Action."

2. The MDL Panel has indicated that a Conditional Order of Transfer to transfer this action to the MDL Action has been issued. The Plaintiffs have filed papers with the MDL Panel opposing the transfer of this action to the MDL Action. The MDL Panel has further advised that a briefing schedule regarding transfer of this action to the MDL Action will be issued, affording the parties an opportunity to present argument for and against such a transfer.

3. In light of the foregoing, and without waiving their right to remand this action to the Supreme Court of the State of New York, County of New York, the Plaintiffs consent to a stay of all proceedings in this Court pending resolution by the MDL Panel of the transfer, if at all, of this case to the MDL Action.

Dated: January 17, 2006

Respectfully Submitted,

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s/ Thomas J. Fellig

By: Thomas J. Fellig, Esq. (TF-4455)

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Attorney for Plaintiffs, Lance Poulsen
And Barbara Poulsen

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2006, I attempted to electronically file the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel who have registered as CM/ECF participants, however, due to the service interruption by the ECF System I was unable to file until January 20, 2006, when service resumed. I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants as indicated on the service list below.

s/ Thomas J. Fellig, Esq

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